APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,188	03/17/2000	David M. Greschler	111283.131 US1	3633

			EXAMINER
23483	7590	06/16/2004	JACOBS, LASHONDA T

WILMER CUTLER PICKERING HALE AND DORR, LLP
60 STATE STREET
BOSTON, MA 02109

ART UNIT	PAPER NUMBER
2157	

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2 3

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No. 09/527,188	Applicant(s) GRESCHLER ET AL.
Office Action Summary	Examiner LaShonda T. Jacobs	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>31 March 2004</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-38 and 43-48</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-38 and 43-48</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This is a Final Office Action is in response to Applicant's amendment filed on March 31, 2004.

Claims 1-38 are presented for further examination. Claims 39-42 have been cancelled. Newly

added claims 43-48 are also presented for examination.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims **1-8, 10-13, 15-27, 29-32**, and **34-38** are rejected under 35 U.S.C. 102(e) as being

anticipated by Peterson et al (hereinafter, "Peterson" 6,502,137).

As per claim **1**, Peterson discloses a method for serving <u>executable application programs</u>

over a computer network from an application server system to a target computer, the method

comprising:

- the target computer signaling the <u>application</u> server system with a request for an

  <u>executable</u> application <u>program</u> (abstract, col. 1, lines 18-36, col. 3, lines 15-41 and

  lines 55-65);

- the <u>application</u> server system responding to the request by transferring an application

  descriptor to the target computer (abstract, col. 1, 18-36, col. 3, lines 15-41, lines 55-65,

col. 4, lines 64-67, col. 5, lines 1-51, col. 8, lines 19-42, col. 9, lines 17-67 and col. 10, lines 1-7);

- the application descriptor being read by a helper application executing on the target computer (abstract, col. 1, lines 18-36, col. 5, lines 1-8, col. 9, lines 17-67 and col. 10); and

- the helper application controlling the target computer to execute the <u>executable</u> application <u>program</u>, which resides on the <u>application</u> server system (abstract, col. 1, lines 18-36, col. 5, lines 1-8, col. 9, lines 17-67 and col. 10).

As per claim **20**, Peterson discloses an application serving system operating across a computer network, the system comprising:

- a target computer that requests an <u>executable</u> application <u>program</u> (abstract, col. 1, lines 18-36, col. 3, lines 15-41 and lines 55-65);

- <u>an application</u> server system that responds to the request by transferring an application descriptor to the target computer (abstract, col. 1, 18-36, col. 3, lines 15-41, lines 55-65, col. 4, lines 64-67, col. 5, lines 1-51, col. 8, lines 19-42, col. 9, lines 17-67 and col. 10, lines 1-7); and

- a helper process executing on the target computer that reads the application descriptor and controls the target computer to execute the <u>executable</u> application <u>program</u> which <u>at least partially</u> resides on the application server system (abstract, col. 1, lines 18-36, col. 5, lines 1-8, col. 9, lines 17-67 and col. 10).

As per claim **43**, Peterson discloses a method for providing an executable software application program from an application server system to a target computer over a network, the method comprising:

- sending an application request signal, indicative of the executable software application program, from the target computer to the application server system (abstract, col. 1, lines 18-36, col. 3, lines 15-41 and lines 55-65);

- receiving an application descriptor from the application server system, the application descriptor corresponding to the executable software application server system, the application descriptor corresponding to the executable software application program (abstract, col. 1, 18-36, col. 3, lines 15-41, lines 55-65, col. 4, lines 64-67, col. 5, lines 1-51, col. 8, lines 19-42, col. 9, lines 17-67 and col. 10, lines 1-7);

- responsive to information in the application descriptor, executing the helper application on the target computer, the helper application using the information in the application descriptor and identifying executable application program elements used by the target computer to run the executable software application program (col. 3, lines 15-23, lines 55-65 and col. 5, lines 23-44);

- receiving the executable software application program elements from the application server system over the network (col. 3, lines 15-23); and

- executing the executable software application program on the target computer using the received executable software application program elements (col. 3, lines 15-23, lines 55-65 and col. 5, lines 23-44).

As per claims **2** and **21**, Peterson further discloses:

- the target computer signaling the server system with the request for the application by user selection of a link, which is displayed by a browser associated with the <u>executable</u> application <u>program</u> (col. 3, lines 55-67 and col. 4, lines 1-6).

As per claims **3** and **22**, Peterson further discloses:

- the link containing an application identifier that identifies the requested <u>executable</u> application <u>program</u> to the <u>application</u> server system (col. 3, lines 55-67 and col. 4, lines 1-6).

As per claims **4** and **23**, Peterson further discloses:

- the link pointing to the browser to the <u>application</u> server system (col. 3, lines 55-67 and col. 4, lines 1-6).

As per claims **5** and **24**, Peterson discloses:

- wherein activating the link triggers the downloading of the application descriptor from the <u>application</u> server system to the target computer (col. 3, lines 15-23, lines 55-67 and col. 4, lines 1-6).

As per claims **6** and **25**, Peterson further discloses:

- the <u>application</u> server system encrypting the application descriptor prior to transmission to the target computer (col. 2, lines 30-44 and col. 9, lines 17-53).

As per claims **7** and **26**, Peterson further discloses:

- invoking the helper application in response to the receipt of the application descriptor on the target computer (col. 5, lines 1-8, col. 9, lines 17-67 and col. 10).

As per claims **8** and **27**, Peterson further discloses:

- maintaining the helper application on a graphical user interface of the target computer
  (col. 5, lines 1-8, col. 9, lines 17-67 and col. 10).

As per claims **10** and **29**, Peterson further discloses:

- issuing a command to a browser to display a follow-up page in response to termination
  of the <u>executable</u> application <u>program</u> on the target computer (col. 10, lines 53-67 and
  col. 11, lines 1-28).

As per claims **11** and **30**, Peterson further discloses:

- the application descriptor, minimum system requirements information, which is used by
  the target computer to ensure that adequate system resources are available to run the
  <u>executable</u> application <u>program</u> (col. 3, lines 35-42).

As per claims **12** and **31**, Peterson discloses:

- wherein the application descriptor contains transaction mode information (col. 8, lines
  44-55).

As per claims **13** and **32**, Peterson discloses:

- wherein the application descriptor contains application server information indicating a
  host computer to which the target computer is attach to receive the <u>executable</u>
  application <u>program</u> (col. 9, lines 17-67 and col. 10, lines 1-7).

As per claims **15** and **34**, Peterson discloses:

- tracking by the server system a status of the operation of the <u>executable</u> application
  <u>program</u> on the target computer (col. 6, lines 15-17).

As per claims **16** and **35**, Peterson discloses:

- a failure server of the application server system receiving error log information from the helper in response to improper operation of the <u>executable</u> application <u>program</u> on the target computer (col. 6, lines 15-17).

As per claims **17** and **36**, Peterson discloses:

- the application descriptor containing application server information indicating a host computer of application server system to which the target computer is attached to receive the <u>executable</u> application <u>program</u>, the host computer being selected to load-balance across the application server system (col. 3, lines 35-42).

As per claims **18** and **37**, Peterson discloses:

- the target computer mounting the server system to access the <u>executable</u> application <u>program</u> (col. 3, lines 16-24, lines 55-67, and col. 4, lines 1-6).

As per claims **19** and **38**, Peterson discloses:

- the target computer accessing the server system via port 80 (col. 9, lines 64-67 and col. 10, lines 1-7).

As per claim **44**, Peterson further discloses:

- selecting a link associated with the executable software application program (col. 3, lines 55-67 and col. 4, lines 1-6).

As per claim **45**, Peterson further discloses:

- installing or updating the helper application on the target computer (col. 5, lines 23-33).

As per claim **46**, Peterson further discloses:

- decrypting the application descriptor if the application descriptor is received in encrypted form (col. 5, lines 45-50).

As per claim **47**, Peterson further discloses:

- checking a firewall proxy to allow streaming of the executable application program

  elements from the application server system to the target computer (col. 1, lines 58-67,

  col. 2, lines 1-15 and lines 20-44; Peterson discloses a security mechanism that checks

  and approves a client a request to ensure that the client has the ability to play or receive

  the requested metadata. Therefore, Peterson explicitly discloses checking a firewall

  proxy to allow streaming of the executable application program elements from the

  application server system to the target computer).

As per claim **48**, Peterson discloses:

- wherein receiving the executable application program elements comprises receiving

  streaming data including the executable application program elements (col. 3, lines 15-

  23, lines 55-65 and col. 5, lines 23-44).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims **9, 14, 28,** and **33** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Peterson in view of de Hond.

As per claims **9** and **28**, Peterson discloses the invention substantially as claimed.

Even though Peterson discloses a helper application within the client computer allowing the user to view video received over the Internet it obvious that the helper application can be used to assist the user in viewing any information over the Internet. However, as far as the helper application being used to display advertisements to the target computer, Peterson does not explicitly disclose these features.

de Hond discloses a system comprising a helper application that is used to display advertisements to the target computer (col. 2, lines 45-67, col. 3, lines 1-4, lines 18-48, col. 5, lines 52-67, col. 6, lines 1-9, col. 8, lines 31-67, and col. 9,lines 1-6).

Given the teaching of de Hond, it would have been obvious to one of ordinary skill in the art to modify Peterson by specifying that helper application within the client system can display advertisements allowing the user to view advertisements being displayed the browser.

As per claims **14** and **33**, Peterson discloses the invention substantially as claimed.

However, Peterson does not explicitly disclose:

- wherein the application descriptor contains advertisement information indicating a host computer to which the target computer is attach to receive advertisements.

de Hond discloses a system comprising:

- wherein the application descriptor contains advertisement information indicating a host computer to which the target computer is attach to receive advertisements (col. 2, lines 45-67, col. 3, lines 1-4, lines 18-48, col. 5, lines 52-67, col. 6, lines 1-9, col. 8, lines 31-67, and col. 9,lines 1-6).

Given the teaching of de Hond, it would have been obvious to one of ordinary skill in the

art to modify Peterson by including advertisements in the application descriptor allowing the

user to view advertisements being displayed the browser.

Response to Arguments

5.   Applicant's arguments filed March 31, 2004 have been fully considered but they are not

persuasive.

The Office notes the following factual arguments:

(a) Applicants respectfully disagree that Peterson provides a request for an application, an

application descriptor, an application descriptor being read by a helper application.

(b) Peterson does not teach or suggest a client controlling execution of an application program on

the server.

(c) Peterson does not disclose receiving executable software application programs or executable

program elements from an application server system.

(d) Peterson does not disclose that the helper application be used to control the target computer

to execute received executable application program code.

(e) Peterson does not teach or suggest a server that servers applications programs.

(f) Peterson does not teach or suggest the claimed application descriptor nor does it teach or

suggest the application descriptor being read by the helper application to control the target

computer to execute received executable application program code.

(g) Peterson does not teach or suggest the claimed application server, helper and execution of the

application program on the target computer.

(h) Peterson does not teach or suggest the claimed method for receiving executable application program elements to execute the executable software application program on the target computer using the helper application.

In response to:

(a)-(h), Peterson discloses a client browser requesting metadata files (application programs) from an application server to be loaded and executed on the client computer. The application server sends the requested data back to the client and the helper application (ActiveMovie) plays the video and audio media on the client computer. An application descriptor (QuickTime format, MPEG format, etc.) is read by the helper application (ActiveMovie) in order to play the appropriate video and audio format (col. 1, lines 18-36, col. 3, lines 15-41, lines 55-65, col. 5, lines 22-51 and col. 10, lines 53-67). Therefore, Peterson does explicitly disclose a method for server executable application programs over a computer network from an application server system to a target computer, the method comprising: the target computer signaling the application server system with a request for an executable application program; the application server system responding to the request by transferring an application descriptor to the target; the application descriptor being read by a helper application executing on the target computer; and the helper application controlling the target computer to execute the executable application program, which resides on the application server system.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to LaShonda T. Jacobs whose telephone number is 703-305-7494.

The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone number for the

organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

LaShonda T. Jacobs
Examiner
Art Unit 2157

ltj
June 2, 2004

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100